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**Green Bay Area Visitor & Convention Bureau and
United Food and Commercial Workers Union
Local 73A, affiliated with the United Food and
Commercial Workers International Union,
AFL-CIO-CLC. Case 30-CA-14547**

March 18, 1999

DECISION AND ORDER

BY MEMBERS FOX, LIEBMAN, AND BRAME

Pursuant to a charge filed on December 30, 1998, the General Counsel of the National Labor Relations Board issued a complaint on January 27, 1999, alleging that the Respondent has violated Section 8(a)(5) and (1) of the National Labor Relations Act by refusing the Union's request to bargain and to furnish information following the Union's certification in Case 30-RC-6032. (Official notice is taken of the "record" in the representation proceeding as defined in the Board's Rules and Regulations, Secs. 102.68 and 102.69(g); *Frontier Hotel*, 265 NLRB 343 (1982).) The Respondent filed an answer admitting in part and denying in part the allegations in the complaint.

On February 16, 1999, the General Counsel filed a Motion for Summary Judgment. On February 18, 1999, the Board issued an order transferring the proceeding to the Board and a Notice to Show Cause why the motion should not be granted. The Respondent filed a response. The Charging Party filed a brief in support of the Motion for Summary Judgment.

The National Labor Relations Board has delegated its authority in this proceeding to a three-member panel.

Ruling on Motion for Summary Judgment

In its answer the Respondent admits its refusal to bargain and to furnish information, but attacks the validity of the certification on the basis of the Board's unit determination in the representation proceeding.

All representation issues raised by the Respondent were or could have been litigated in the prior representation proceeding. The Respondent does not offer to adduce at a hearing any newly discovered and previously unavailable evidence, nor does it allege any special circumstances that would require the Board to reexamine the decision made in the representation proceeding. We therefore find that the Respondent has not raised any representation issue that is properly litigable in this unfair labor practice proceeding. See *Pittsburgh Plate Glass Co. v. NLRB*, 313 U.S. 146, 162 (1941).¹

¹ We also find no merit in the Respondent's contention that the complaint does not comply with applicable statutes of limitations. The Respondent provides no information concerning this contention, and

We also find that there are no factual issues requiring a hearing with respect to the Union's request for information. The Union requested the following information "for the previous twenty-four (24) month period ending November 13, 1998, as it pertains to the bargaining unit employees":

A list of current employees, including their names, dates of hire, rates of pay, job classification, last known address, phone number, date of completion of any probationary period, and social security number.

A copy of all current company personnel policies, practices, or procedures.

A statement and description of all company personnel policies, practices or procedures other than those mentioned in Number 2 above.

A copy of all company fringe benefit plans including pension, profit sharing, severance, stock incentive, vacation, health and welfare, training, legal services, Child care or any other plans which relate to the employees.

Copies of all current job descriptions.

Copies of any company wage or salary plans.

Copies of all disciplinary notices, warnings or records of disciplinary personnel actions for the last year.

The Respondent's answer admits that the Respondent refused to provide this information to the Union, but denies that the information requested is necessary and relevant to the Union's duties as the exclusive bargaining representative of the unit employees. However, it is well established that, with the exception of the employees' social security numbers requested in paragraph 1,² the requested information is presumptively relevant and must be furnished on request. See *Trustees of Masonic Hall*, 261 NLRB 436 (1982), and *Mobay Chemical Corp.*, 233 NLRB 109 (1977).

Accordingly, we grant the Motion for Summary Judgment and will order the Respondent to bargain and to furnish the requested information with the exception of employee social security numbers.

On the entire record, the Board makes the following

we note that the unfair labor practice charge and complaint allegations are consistent with the time provisions of Sec. 10(b) of the Act.

² See *Sea-Jet Trucking Corp.*, 304 NLRB 67 (1991). Accordingly, the employee social security numbers allegation is remanded to the Regional Director for further appropriate action.

FINDINGS OF FACT

I. JURISDICTION

At all material times, the Respondent, a nonstock non-profit corporation, has been engaged in the business of operating the Expo Center and promoting tourism in the Green Bay area from its place of business in Green Bay, Wisconsin.

During the calendar year ending 1998, the Respondent, in conducting its operations, provided services valued in excess of \$50,000 to businesses located outside the State of Wisconsin.

We find that the Respondent is an employer engaged in commerce within the meaning of Section 2(2), (6), and (7) of the Act and that the Union is a labor organization within the meaning of Section 2(5) of the Act.

II. ALLEGED UNFAIR LABOR PRACTICES

A. *The Certification*

Following the election held October 6, 1998, the Union was certified on December 11, 1998, as the exclusive collective-bargaining representative of the employees in the following appropriate unit:

All full-time and regular part-time setup, cleanup and maintenance employees employed by the Green Bay Area Visitor & Convention Bureau, Inc., at the Brown County Veterans Memorial Arena and Exposition Center complex, Green Bay, Wisconsin; excluding office clerical, sales security, rescue and managerial employees, car parkers, ushers, stage employees, service representatives, door persons, tour escorts, employees of Promotional Management, Inc., temporary agency employees, guards, and supervisors as defined in the Act, and all other employees.

The Union continues to be the exclusive representative under Section 9(a) of the Act.

B. *Refusal to Bargain*

Since November 13, 1998, the Union has requested the Respondent to bargain and to furnish information, and, since November 20, 1998, the Respondent has refused. We find that this refusal constitutes an unlawful refusal to bargain in violation of Section 8(a)(5) and (1) of the Act.

CONCLUSION OF LAW

By refusing on and after November 20, 1998, to bargain with the Union as the exclusive collective-bargaining representative of employees in the appropriate unit and to furnish the Union requested information, the Respondent has engaged in unfair labor practices affecting commerce within the meaning of Section 8(a)(5) and (1) and Section 2(6) and (7) of the Act.

REMEDY

Having found that the Respondent has violated Section 8(a)(5) and (1) of the Act, we shall order it to cease and desist, to bargain on request with the Union and, if an understanding is reached, to embody the understanding in a signed agreement. We also shall order the Respondent to furnish the Union the information requested with the exception of employee social security numbers.

To ensure that the employees are accorded the services of their selected bargaining agent for the period provided by the law, we shall construe the initial period of the certification as beginning the date the Respondent begins to bargain in good faith with the Union. *Mar-Jac Poultry Co.*, 136 NLRB 785 (1962); *Lamar Hotel*, 140 NLRB 226, 229 (1962), *enfd.* 328 F.2d 600 (5th Cir. 1964), *cert. denied* 379 U.S. 817 (1964); *Burnett Construction Co.*, 149 NLRB 1419, 1421 (1964), *enfd.* 350 F.2d 57 (10th Cir. 1965).

ORDER

The National Labor Relations Board orders that the Respondent, Green Bay Area Visitor & Convention Bureau, Green Bay, Wisconsin, its officers, agents, successors, and assigns, shall

1. Cease and desist from

(a) Refusing to bargain with United Food and Commercial Workers Union Local 73A, affiliated with the United Food and Commercial Workers International Union, AFL-CIO-CLC as the exclusive bargaining representative of the employees in the bargaining unit, and refusing to furnish the Union information that is relevant and necessary to its role as the exclusive bargaining representative of the unit employees.

(b) In any like or related manner interfering with, restraining, or coercing employees in the exercise of the rights guaranteed them by Section 7 of the Act.

2. Take the following affirmative action necessary to effectuate the policies of the Act.

(a) On request, bargain with the Union as the exclusive representative of the employees in the following appropriate unit on terms and conditions of employment and, if an understanding is reached, embody the understanding in a signed agreement:

All full-time and regular part-time setup, cleanup and maintenance employees employed by the Green Bay Area Visitor & Convention Bureau, Inc., at the Brown County Veterans Memorial Arena and Exposition Center complex, Green Bay, Wisconsin; excluding office clerical, sales security, rescue and managerial employees, car parkers, ushers, stage employees, service representatives, door persons, tour escorts, employees of Promotional Management, Inc., temporary agency employees, guards, and supervisors as defined in the Act, and all other employees.

(b) Furnish the Union information that it requested on November 13, 1998, with the exception of employee social security numbers.

(c) Within 14 days after service by the Region, post at its facility in Green Bay, Wisconsin, copies of the attached notice marked "Appendix."³ Copies of the notice, on forms provided by the Regional Director for Region 30 after being signed by the Respondent's authorized representative, shall be posted by the Respondent and maintained for 60 consecutive days in conspicuous places including all places where notices to employees are customarily posted. Reasonable steps shall be taken by the Respondent to ensure that the notices are not altered, defaced, or covered by any other material. In the event that, during the pendency of these proceedings, the Respondent has gone out of business or closed the facility involved in these proceedings, the Respondent shall duplicate and mail, at its own expense, a copy of the notice to all current employees and former employees employed by the Respondent at any time since November 20, 1998.

(d) Within 21 days after service by the Region, file with the Regional Director a sworn certification of a responsible official on a form provided by the Region attesting to the steps that the Respondent has taken to comply.

Dated, Washington, D.C. March 18, 1999

Sarah M. Fox, Member

Wilma B. Liebman, Member

(SEAL) NATIONAL LABOR RELATIONS BOARD

MEMBER BRAME, dissenting.

In the underlying representation proceeding, I dissented from my colleagues' denial of the Employer's request for review of the Regional Director's Decision and Direction of Election, in which he found events and operations supervisors to be employees and not statutory supervisors and, therefore, eligible to vote. Accordingly, I dissent here from my colleagues' granting the General Counsel's Motion for Summary Judgment and their

³ If this Order is enforced by a judgment of a United States court of appeals, the words in the notice reading "Posted by Order of the National Labor Relations Board" shall read "Posted Pursuant to a Judgment of the United States Court of Appeals Enforcing an Order of the National Labor Relations Board."

finding that the Employer violated Section 8(a)(5) and (1) of the Act.

Dated, Washington, D.C. March 18, 1999

J. Robert Brame III, Member

NATIONAL LABOR RELATIONS BOARD

APPENDIX

NOTICE TO EMPLOYEES

POSTED BY ORDER OF THE

NATIONAL LABOR RELATIONS BOARD

An Agency of the United States Government

The National Labor Relations Board has found that we violated the National Labor Relations Act and has ordered us to post and abide by this notice.

WE WILL NOT refuse to bargain with United Food and Commercial Workers Union Local 73A, affiliated with the United Food and Commercial Workers International Union, AFL-CIO-CLC as the exclusive representative of the employees in the bargaining unit, and WE WILL NOT refuse to furnish the Union information that is relevant and necessary to its role as the exclusive bargaining representative of the unit employees.

WE WILL NOT in any like or related manner interfere with, restrain, or coerce you in the exercise of the rights guaranteed you by Section 7 of the Act.

WE WILL, on request, bargain with the Union and put in writing and sign any agreement reached on terms and conditions of employment for our employees in the bargaining unit:

All full-time and regular part-time setup, cleanup and maintenance employees employed by the Green Bay Area Visitor & Convention Bureau, Inc., at the Brown County Veterans Memorial Arena and Exposition Center complex, Green Bay, Wisconsin; excluding office clerical, sales security, rescue and managerial employees, car parkers, ushers, stage employees, service representatives, door persons, tour escorts, employees of Promotional Management, Inc., temporary agency employees, guards, and supervisors as defined in the Act, and all other employees.

WE WILL furnish the Union information that it requested on November 13, 1998, with the exception of employee social security numbers.

GREEN BAY AREA VISITOR & CONVENTION BUREAU